

Jose Rivera

From: Jose Rivera
Sent: Thursday, July 23, 2009 4:24 PM
To: 'Thomas, William'; 'ledermanb@verizon.net'
Cc: Hart, Anita L
Subject: RE: ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium; ILS-32438 Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium;

Good afternoon Mr. Thomas.

I hope all is well.

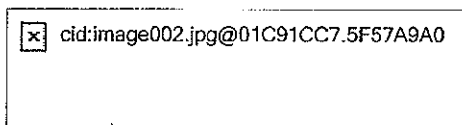
Thank you very much for forwarding to us the corrected opinion.

Please confirm by return email::

- 1) That the corrected One Hunter's Point letter dated 7-17-09 and attached to your email of today supersedes and is a retraction of the advisory opinion issued by your office dated 7-15-09.
- 2) When your web HUD site will be updated to indicate that the One Hunters Point and Hunters View projects are exempt from the requirements of ILSA as apposed to the current "pending" status.

Thank you.

Best regards,
Jose and Bruce



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From: Thomas, William [mailto:William.Thomas@hud.gov]
Sent: Thursday, July 23, 2009 3:09 PM
To: Jose Rivera; 'ledermanb@verizon.net'
Cc: Hart, Anita L
Subject: ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium; ILS-32438 Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium;

Jose & Bruce:

Here is the corrected document processed by Ms Hart.

You may in fact have received the original that was sent out by support staff.

Best regards,

William J. Thomas

William J. Thomas, MBA, Certified Paralegal
Consumer Protection Compliance Specialist
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Jose Rivera

From: Thomas, William [William.Thomas@hud.gov]
Sent: Thursday, July 23, 2009 6:42 PM
To: Jose Rivera; 'ledermanb@verizon.net'
Subject: ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium; ILS-32438 Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium;

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ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium;
ILS-32438 Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium;

JOSE WROTE Thursday, July 23, 2009 4:24 PM

Please confirm by return email:

- 1. That the corrected One Hunter's Point letter dated 7-17-09 and attached to your email of today supersedes and is a retraction of the advisory opinion issued by your office dated 7-15-09.*
- 2. When your web HUD site will be updated to indicate that the One Hunters Point and Hunters View projects are exempt from the requirements of ILSA as opposed to the current "pending" status.*

RESPONSE

Because of prior discussions, as I had agreed to do, I sent you both by e-mail the copy of the *Advisory Opinion* prepared by Ms Hart. If there were any questions, they were to be directed to Ms Hart as the *Advisory Opinion* indicated. However, Ms Hart has asked me to respond to your e-mail of this afternoon.

1. Since the date of the *Advisory Opinion* which was sent is subsequent to the July 15, 2009 opinion which Ms Hart previously issued, the July 17, 2009 *Advisory Opinion* is to be considered the most current *Advisory Opinion* on the matter. I believe that based on additional information which she

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received, the *Advisory Opinion* was re-written by her on July 17, 2009 and sent out by her though the Department's support staff. When I got the *Advisory Opinion*, I forwarded it to you.

2. Because of the limitations of the website, the word "Exempt" will show once the Complaint issues are addressed. It is anticipated that the Complaints which have been filed will be addressed in the next week or so.

See the last paragraph in the *Advisory Opinion*. The paragraph indicates that the opinion which was issued does not apply to any method or operation not fully disclosed by the Developer and does not waive any requirements of 15 U.S.C. § 1701 *et seq.* The paragraph also indicates that willful violation of the Interstate Land Sales Full Disclosure Act may result in civil money penalties and or criminal prosecution.

Also note that as to the 100 Lot Exemption, the Developer must comply with the Act and its anti-fraud provisions as set forth in 24 CFR §1710.4 (b) and (c).

See 24 CFR 1710.4(a). The exemptions available under 24 CFR 1710.5 through 24 CFR 1710.16 are not applicable when the method of sale, lease or other disposition of land or an interest in land is adopted for the purpose of evasion of the Act.

Please note, that what was obtained was an *Advisory Opinion* which was issued pursuant to 24 CFR 1710.17 as opposed to a *Regulatory Exemption Order* pursuant to 24 CFR 1710.16. Also note, that the term "Exempt" deals with the requirements of registration of the developments and to transactions exempt pursuant to the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 *et seq.* (the "Act"). See also 24 CFR 1701.3 for additional information.

Best regards,

William J. Thomas

William J. Thomas, MBA, Certified Paralegal
Consumer Protection Compliance Specialist
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